

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2018-37

A By-law to regulate Election Signs within the Town of Amherstburg

WHEREAS Section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority of the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS Section 63 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a by-law may prohibit or regulate the placing or standing of an object on or near a highway, and may provide for the removal and impounding or restraining and immobilizing of any object placed or standing on or near a highway;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, establishes that any person who contravenes any by-law of the Town of Amherstburg is guilty of an offence;

AND WHEREAS Section 445 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may make an order requiring a person who has contravened a by-law or who caused or permitted the contravention, or the owner or occupier of land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that where a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the municipality may recover the costs of doing a matter or thing by action or by adding the costs to the tax roll and collecting them in the same matter as property taxes;

THEREFORE the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. DEFINITIONS

In this by-law:

"Boulevard" means the portion of every road allowance within the limits of the Town which is not used as a sidewalk, driveway, travelled roadway, or shoulder;

"Campaign Office" means a building or structure, or part of a building or structure used by a Candidate to conduct an election campaign;

"Candidate" means:

- i. A Candidate within the meaning of the *Canada Election Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996* as amended; and
- ii. Shall be deemed to include a person seeking to influence other persons to vote for or against any question or by-law to the electors under section 8 of the *Municipal Elections Act, 1996* as amended;

“**Clerk**” means the Town Clerk or a person delegated by them for the purpose of administrating this By-law;

“**Council**” means the Council of the Corporation of the Town of Amherstburg;

“**County**” means the Corporation of the County of Essex;

“**Election Sign**” means any sign, including posters, promoting, opposing or taking a position with respect to:

- i. Any Candidate or political party in an election under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*;
- ii. An issue associated with a person or political party in an election under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*; or
- iii. A question, law or by-law submitted to the electors under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*;

“**Electoral District**” means a geographic area represented by a Member of Municipal Council, Member of School Board, Member of Provincial Parliament in the Legislative Assembly of Ontario, and Member of Federal Parliament in the House of Commons;

“**Highway or Street**” means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles and includes the area between the lateral property lines thereof, but for the purposes of this by-law does not include highways under the jurisdiction of the County;

“**Illumination**” shall mean lighting of the Election Sign, in whole or in part, by artificial means, and when used in reference to:

- i. internal illumination, means lighting the sign face with a light source located within the sign;
- ii. external illumination, means having a light source exterior to the sign and on, or directed at, the sign; and
- iii. flashing illumination shall mean illumination that varies and is perceived to vary in intensity or design at periodic intervals;

“**Median Strip**” means the portion of a Street so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a physical barrier or a raised or depressed paved or unpaved separation area that is not intended to allow crossing vehicular movement and includes a central island in a roundabout;

“**Municipal Law Enforcement Officer**” means an individual appointed by the Town for the purpose of enforcing Town by-laws;

“**Nomination Day**” means the deadline to file a nomination with the Clerk under the *Municipal Election Act, 1996* as amended;

“**Owner**” means the registered Owner of the property, tenant or lessee on which an Election Sign is Placed; any person described on or whose name, image, address or telephone number appears on the Election Sign; any Person who has Placed or permitted to be Placed the Election Sign; and for the purposes of this By-law there may be more than one Owner of an Election Sign;

“**Park**” shall mean any land which the Town owns or has the use of that is designated by Council as such, and intended to be used and enjoyed by the public for pleasure and recreation, and shall include any body of water enjoyed or used in connection therewith;

“**Person**” means any individual, Candidate, Owner, Registered Third Party, occupant, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law;

“Place” means attach, install, erect, build, construct, reconstruct, move, display or affix;

“Premises” includes the parking lot, adjoining fences and road allowances;

“Public Property” means real property owned by or under the control of the Town; including a Park, or any of its agencies, local boards, commissions or corporations but, for the purposes of this by-law but does not include a Highway;

“Public Utility Facility” means a pole, transformer box, service container, equipment or other such structure, owned or controlled by an entity which provides a municipal or public utility service;

“Registered Third Party” means any Person or entity, including but not limited to a corporation or trade union whom is not a registered Candidate, political party or constituency association who incurs expenses with respect to:

- i. a question, law or by-law submitted to the electors;
- ii. an issue associated with a person or political participating in an election or;
- iii. a Candidate or political party participating in an election under the *Canada Elections Act*, the *Election Act* (Ontario) or the *Municipal Elections Act*, 1996.

“Sidewalk or Trail” means any municipal walkway, or that portion of a Highway between the roadway and adjacent property line, primarily intended for the use of pedestrians;

“Sign Area” shall mean the number of square metres on the surface of a sign including the border and frame, and where there is no border shall include all of the area of the surface lying within the extremities of the sign;

“Sign Height” means the vertical distance measured from the highest point of the sign to grade and includes any support structure;

“Third Party Advertisement” shall mean an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing:

- i. a Candidate; or
- ii. a “yes” or “no” answer to a question referred to in subsection 8(1), (2) or (3), of the *Municipal Elections Act*, 1996;

and will contain the name of the Registered Third Party, the municipality where the third party is registered, telephone number, mailing address and/or e-mail address at which the third party may be contacted;

“Town” means the Corporation of the Town of Amherstburg;

“Trailer” means a Vehicle or device that is intended to at any time be drawn, temporarily drawn, propelled or moved upon a Highway by a motor vehicle and for the purposes of this by-law shall include but not be limited to a wagon, implement of husbandry, trailer designed for recreational purposes or commercially registered vehicle or trailer;

“Vehicle” includes any means of transportation propelled or driven by any kind of power including muscular power;

“Voting Place” means a place where electors cast their ballots and shall include the entire Premises for both Voting Places on Public and Private Property and:

- i. When a Voting Place is located on Public Property, includes any Highway abutting; or
- ii. When a Voting Place is located on private property, includes any Highway abutting;

“Writ of Election” means the date defined in the *Canada Elections Act* and the *Elections Act* (Ontario);

“Zone” shall mean a designated area of land use as defined in the Town’s Zoning By-Law, as amended from time to time.

2. INTERPRETATION

- 2.1 In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
- 2.2 Nothing in this by-law shall be interpreted as reducing or eliminating compliance with the provisions of all applicable Federal or Provincial statutes.

3. GENERAL PROHIBITIONS

- 3.1 No Person shall Place or permit to be Placed an Election Sign except in accordance with this by-law.
 - 3.2 No Person shall Place or permit an Election Sign that:
 - 3.2.1 Is Illuminated;
 - 3.2.2 Has a Sign Area more than 6 square metres;
 - 3.2.3 Interferes with the safe operation of vehicular traffic or the safety of pedestrians;
 - 3.2.4 Impedes or obstructs the Town’s maintenance operations.
 - 3.3 No Person shall Place or Permit an Election Sign:
 - 3.3.1 On a Public Utility Facility
 - 3.3.2 On any Town official sign or sign structure;
 - 3.3.3 On or in a Voting Place
 - 3.3.4 On or within a Vehicle or Trailer parked with 50 metres of a Voting Place
 - 3.3.5 On or within a Vehicle or Trailer parked on Public Property
 - 3.4 No Person shall deface or wilfully cause damage to a lawfully erected Election Sign.
 - 3.5 No Registered Third Party shall Place a Third Party Advertisement that does not contain the necessary contact information as defined.
 - 3.6 No Person shall Place an Election Sign in such a position that such Election Sign would contravene any other applicable legislation.
 - 3.7 No Person shall Place or permit to be Placed an Election Sign outside of the Electoral District where the Candidate is running for office.
 - 3.8 No Person shall display on any Election Sign, a logo, trademark, official mark, or crest, in whole or in part, owned by the Town.
- ## **4. TIME RESTRICTIONS**
- 4.1 No Person shall Place or permit to be Placed an Election Sign for a federal or provincial election or by-election earlier than the day the Writ of Election or by-election is issued.
 - 4.2 No Person shall Place or permit to be Placed an Election Sign for a municipal election:
 - 4.2.1 Earlier than Nomination Day in the year of a Regular Election; or

4.2.2 Earlier than Nomination Day for a by-election.

4.3 No Person shall Place or permit to be Placed an Election Sign for a municipal election on a Campaign Office earlier than the day that Candidate has filed their nomination with the Clerk.

4.4 No Person shall fail to remove an Election Sign within five (5) days immediately following 11:59 p.m. of the day of the election.

5. ELECTION SIGNS ON PUBLIC PROPERTY

5.1 No Person shall Place or permit to be Placed an Election Sign on Public Property.

5.2 No Person shall Place or permit to be Placed an Election Sign in a Park.

5.3 No Person shall Place or permit to be Placed an Election Sign:

5.3.1 On a Highway

5.3.2 Within 1 metres of a Highway

5.3.3 Between a Highway and Sidewalk

5.3.4 That impedes or obstructs the passage of pedestrians on a Sidewalk

5.3.5 In a median strip

5.3.6 Within a Boulevard

5.3.7 Within 3 metres of a Crosswalk

5.3.8 On a tree, fence or gate located on Public Property

6. ELECTION SIGNS ON PRIVATE PROPERTY

6.1 Election Signs may be Placed on private property if:

6.1.1 The Election Signs are no larger than 6 square metres and the Sign Height is no greater than two metres, save and except Election Signs on Campaign Offices and Election Signs displayed indoors.

6.1.2 The Election Signs do not interfere with the safe operation of vehicular traffic or with the safety of pedestrians.

6.2 No Person shall Place or permit to be Placed an Election Sign on Private Property without consent of the Owner of the property.

6.3 No Person shall Place or permit to be Placed more than two (2) Election Signs per Candidate on any property zoned residential.

6.4 No Person shall Place or permit to be Placed more than three (3) Election Signs per Candidate on any property zoned other than residential.

6.5 No Person shall pull down or remove a lawfully erected Election Sign on private party without the consent of the Candidate to the sign or Owner of the property on which the sign is erected.

6.6 The use of any otherwise approved sign structure is governed by the Town's Sign By-law as amended.

7. REMOVAL/STORAGE/DISPOSAL OF UNLAWFUL ELECTION SIGNS

- 7.1 The Municipal Law Enforcement Officer may remove any Election Sign in contravention of this by-law without notice.
- 7.2 Where an Election Sign has been removed, notice shall be forwarded to the Candidate or Registered Third Party by personnel service or regular post, in which case the notice shall be deemed to have been received on the seventh day following the date the notice was mailed.
- 7.3 Signs removed pursuant to this Section shall be stored by the Town for a period of not less than 30 days, during which time the Candidate or Registered Third Party may be entitled to redeem, upon payment for the removal and storage fees as prescribed in the Town's User Fee By-law as amended, satisfactory to the Town.
- 7.4 Where an Election Sign has been removed by the Town and notice provided in accordance with Section 7.2 and stored for a period of at least 30 days and the Election Sign has not been redeemed, the sign may be forthwith destroyed or otherwise disposed of by the Town and the Candidate will be invoiced for the removal and related storage fees.

8. ENFORCEMENT

- 8.1 A Municipal Law Enforcement Officer shall be permitted to enter onto land at any time for the purpose of enforcing this by-law and any orders or conditions imposed under the authority of this by-law.
- 8.2 No Person shall hinder or obstruct, or attempt to hinder or obstruct the entry or the inspection of any property by a Municipal Law Enforcement Officer or otherwise hinder or obstruct a Municipal Law Enforcement Officer exercising a power or performing a duty under this By-law or Act.

9. OFFENCES AND PENALTIES

- 9.1 Every Person who contravenes any section of this by-law is, upon conviction, guilty of an offence and shall be liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, c.P. 33, as amended, and be subjected to any other penalties permitted by law for each offence.

10. SEVERABILITY

- 10.1 Should any paragraph, clause or provision of the By-law be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.
- 10.2 When any requirement of this by-law is at variance with any other by-law in effect in the Town or with any applicable provincial or federal statute or regulation, the more restrictive requirement shall apply unless otherwise stated in such legislation.

11. SHORT TITLE

11.1 This by-law may be referred to as the Election Sign By-law.

Read a first, second and third time and finally passed this 23rd day of April ,
2018.



MAYOR – ALDO DICARLO



CLERK – PAULA PARKER